IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH``
AT HYDERABAD

THE HONOURABLE SRI JUSTICE GODA RAGHURAM

WRIT PETITION NO.25398 of 2006
DATED 06-08-2007

BETWEEN
Smt.Chandravathi Jaiswal

.. Petitioner

And

The District Collector, Hydeabad District,
Hyderabad and another.

.. Respondents

THE HONOURABLE SRI JUSTICE GODA RAGHURAM

WRIT PETITION NO.25398 of 2006

Oral Order:

A house property bearing municipal No.1-67 situate in an extent of 152 square yards out of an extent of 400 square yards of land on plot Nos.11 and 12 in Survey No.6/1, 10 and 12 of Gachibowli, Serilingampally Municipality, Ranga Reddy District in the possession and enjoyment of the petitioner and in respect of which she has a legal right purportedly on the basis of an agreement of sale dated 22.2.1995, was acquired for the purpose of formation of the outer ring road. Earlier, an extent of 300 square yards in the above described premises was acquired for road widening and an alternate land of 240 square yards in Gachibowli was assigned in the name of the petitioner's

husband. The present acquisition of 152 square yards of land was by a notification under Section 4(1) of the Land Acquisition Act, 1894 (for short 'the Act') dated 25.2.2006. The declaration under Section 6 of the Act was issued on 1.3.2006. The notification was issued reflecting the name of one Kondiah, the earlier owner of the property. By a notice dated 28.4.2006, inter alia, the husband of the petitioner was intimated that he is in physical possession of an extent of 152 square yards and that an award would be passed and compensation would be paid as determined, eventually. By a subsequent notice under Section 12(2) of the Act, dated 16.5.2006, the petitioner is intimated that award No.3 of 2006 was passed on 15.5.2006 but the compensation amount would not be paid since there is a title dispute in respect of the land in survey No.10 of Gachibowli Village, Serilingampally Mandal and as such, the matter is being referred to the civil Court under Sections 30 and 31 of the Act, for adjudication.

Sri Surya Prakasa Rao, learned counsel for the petitioner would contend that since the property in dispute originally belonged to one Kondaiah who had sold it to one Kursheed Begum, who in turn entered into an agreement of sale with the petitioner and has also handed over physical possession of the property to the petitioner, the petitioner is a person interested and as there is no other person claiming compensation for this property, the Land Acquisition Officer, the 2nd respondent herein, had committed a patent jurisdictional error by issuing the communication dated 16.5.2006 declining payment of the compensation amount and intimating that the issue has been referred to the civil court under Sections 30 and 31 of the Act.

It is a settled principle that an authority, who has jurisdiction to determine can also come to a wrong conclusion and such errors within jurisdiction are not reviewable under Article 226 of the Constitution of

India when there is an alternative statutory remedy available. In the case on hand, the 2nd respondent had merely exercised the available jurisdiction under Sections 30 and 31 of the Act, has entertained a doubt as to the petitioners entitlement to the property in question and therefore to the compensation for its acquisition on the basis of an agreement of sale, which the petitioner had produced before the 2nd respondent in support of her claim for compensation. This Court perceives no patent jurisdictional error in the exercise of jurisdiction by the 2nd respondent in referring the matter to the civil court under Sections 30 and 31 of the Act. The civil court can determine and adjudicate upon the petitioner's claim to the property in question and, therefore, to the compensation amount on its acquisition by the State. The mere act of reference to the civil court by the 2nd respondent is not a patent error of jurisdiction reviewable under Article 226 of the Constitution of India.

There are no merits in the writ petition. The writ petition is accordingly dismissed. The petitioner is, however, at liberty to canvass her claim for compensation before the Civil Court.

GODA RAGHURAM,J

Dated 6.8.2007
msv